Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers	CC Docket No. 94-129

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Reply of Allnet Communication Services, Inc.

Allnet Communication Services, Inc. (Allnet) hereby replies to the comments filed in the above captioned proceeding on January 9, 1995. There is general agreement among most of the commenters on several key proposals of the Commission. There was general agreement on the following points:

1) Separation of Inducements: There was general agreement on the Commission's proposal that non-telecommunications-related inducements (e.g., contest entry, charity contributions, airline tickets, check endorsements) should not be included in any LOA. In addition, no "negative options" for long distance vis a vis such inducements should be contained in the LOA. LOAs should be on a separate piece of paper.[1]

2) Prescription of Specific Language: Some parties supported Commission

[1] See, e.g., Sprint at 4-5, Californian PUC at 2-3, Missouri PSC at 3-4, New York PSC at 2-3, Consumer Action at 2, NYNEX at 2-3, GTE at 4-5, Pacific Bell at 1., LDDS at 5, Comptel at 6, Allnet at 4-8, and Comments of National Association of Attorney's General, et. al. at 3-5.

prescription of the actual language of the LOA.[2] The need to prescribe specific language is driven by the misunderstandings and confusion that arise where rules must be interpreted. An excellent illustration of the need for prescribed language to avoid confusion is demonstrated by a filing by Telecommunications Company of the Americas (TELCAM). Telcam seeks to have the Commission reconsider its proposal. TELCAM attached a copy of its LOA form which it claims "differs significantly from the FCC description of a "negative option LOA."[3] However, and most ironically, a close examination of the illustrative LOA shows that it indeed does use a negative option, [4] and its very heading begins with the confusing words "ENTRY BLANK AND LD APPLICATION BENEFITTING COMMUNITY BASED CHARITIES."

Allnet does not wish to single out TELCAM. But, TELCAM's representation of its "illustration" as being compliant demonstrates an important point. Most LOAs are not drafted by regulatory attorneys. Instead, they are often drafted by salespersons, or marketing departments, who view their responsibility as making the most effective sales tool, with the highest response rate, even if that means that an honest, but effective, slight of hand is used in the wording of that sales tool. Short of requiring that an attorney certify that they have reviewed the language for compliance, there is no way of avoiding these problems a priori other than

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[2]See, Comments of Nat. Assoc. of Attrny's Genls at 5-6, Allnet at 8-10, Missouri at 3, Consumer Action at 2, NYNEX at 3,LDDS at 5-6.

[3]TELCAM at 1.

[4]The LOA states at the bottom: "Check here if you do not want to help charities by changing long distance service, but still want your name entered in the contest. Changing your long distance service to TELCAM automatically qualifies you to win the prize offered." TELCAM at 1.

Commission prescription of the literal wording of the LOA language, along with a minimal print size requirement. The wording should be non-legalese in style, and easily understandable for a person with only the most basic english reading skills. By prescribing the wording, it will be easy for everyone to tell whether an LOA is in compliance, or not. In contrast, today there is a very large gray area of language that to some appears to be compliant, while to others appears not to be compliant.

3) Changes for LEC Billing Systems to Avoid Confusion: Many complaints arise because the LEC billing systems have created unnecessary confusion for the customer who is legitimately switched. Today, for a switchless resale customer most LECs misleadingly identify the name of the underlying carrier on a consumer's telephone bill when the presubscription change is made, rather than the identifying the name of the reseller (i.e., the carrier who solicits the customer and bills the customer). The customer, not ever having heard of the underlying carrier, instinctively believes that they have been "slammed" by that underlying carrier, even when the change was exactly what was required to fulfil the customer's intent to use the reseller.

Most LECs have dragged their feet in implementing changes to their systems to allow the reseller's name, rather than the underlying carrier's name, to appear on the bill when the switch takes place. Sprint makes this very important point in its filing. Sprint suggests that the Commission short circuit this foot dragging by many LECs and order them to implement the needed system changes by a date certain.[5] By making this system change, the need to list the underlying carrier on the LOA will be eliminated. This will make the role of the underlying carrier transparent to the

[5]Sprint at 9.

customer, and will also reduce the confusion that currently exists as to who slammed who when a complaint is filed at the FCC. Allnet is fully prepared to provide the reseller name information to the LECs along with the PIC change orders of switchless resellers.

4) State Preemption: A number of parties have suggested that the FCC clarify that their LOA requirements preempt additional requirements by state regulatory authorities and any state statutes.[6] A well laid-out legal analysis is presented in the Comptel comments. There is no question that the presubscription process is not "severable." Only if it were severable would split jurisdictional regulation be possible as contemplated by Louisiana Public Serv. Comm'n v. FCC, 476 U.S. 355 (1986), also, Public Utility Comm'n of Texas v FCC, 886 F.2d 1325, 1331-1333 (D.C. Cir. 1989). Unless and until there is an intrastate PIC and an interstate PIC, would such severability be possible. The Commission's actions have the explicit objective of striking a balance between promoting competition and protecting consumers. See, Illinois Citizens Utility Board Petition for Rulemaking, MO&O, 2 FCC Rcd 1726 (Com. Car. Bur. 1987). In Illinois CUB Order, the Commission stated its objectives to "facilitate the IXC's marketing efforts while maintaining the protection embodied in the letter of the agency requirements." Thus, any additional state requirement would, by definition, upset that balance. State actions in this area are necessarily preempted.

5) Refunds: Most commenters suggest that any adjustment for slamming should be done by the billing carrier, after a complaint has been ruled on, and only in

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[6]See, e.g., Comptel at 10, L.D. Services at 2-3, CTS at 4-5, ACC at 7-8, Hi-Rim at 6-7.

the amount equal to the difference between any additional charges incurred by the customer as result of the "slam."[7] A couple of more arbitrary proposals should be rejected. AT&T proposes a standard "discount" for domestic and international calls.[8] This proposal has no basis and would be in violation of the tariffs of the carrier who must payout the amounts. Moreover, the "slamming" IXC may actually (and will likely) have lower rates than AT&T. Thus, it makes no sense that additional savings be given for such customers who are already paying a lower rate. The AT&T proposal would also promote slamming fraud, resulting in "LD surfers" who go between carriers simply to get these additional discounts. AT&T's proposal is simply nonsensical and self-serving.

Pacific Bell has an equally nonsensical proposal. Pacific Bell proposes reporting by LECs of PIC "complaints," and based on the rate of complaints a carrier would be fined.[9] It is important to distinguish between "complaints" and valid claims. Many complaints are simply not valid claims. The assessment of a fine based on simply the number of complaints, whether valid or not, is simply arbitrary. Moreover, the LEC, is often at fault for PIC disputes. Allnet has found on numerous occasions that the LEC has misassigned an ANI to Allnet due to an error in order entry by the LEC. Shouldn't the LEC be subject to fines, as well, under the Pacific Bell plan? The Pacific Bell proposal would simply not provide a procedurally valid basis for assessing fines.

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[7]See, e.g., Sprint at 12-13, Allnet at 13.

[8]AT&T at 21.

[9]Pacific Bell at 2.

6) Multiple PICs: GTE, GCI, and Allnet, all agree that LOAs should accommodate multiple PICs, such as an intraLATA PIC, interLATA PIC, and international PIC.[10] IntraLATA equal access is about to be rolled out nationwide.[11] Thus, these changes are both timely and should be adopted.

For the reasons set forth herein and in the Allnet Comments, the Commission should adopt its proposals, with the strengthening proposed by Allnet. In addition, the Commission should adopt the Sprint-proposed requirement that LECs list the name of the switchless reseller, rather than the name of the underlying carrier, on the LEC bill when a PIC change occurs.

Respectfully submitted,
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[10] GTE at 3-4, GCI at 2-3, and Allnet at 9-10.

[11] See, In the Matter of Administration of the North American Numbering Plan, CC Docket No. 92-237, Phases One and Two.

Certificate of Service

I, Roy L. Morris, hereby certify that I have caused to be served on this date, a true copy of the forgoing Allnet reply brief by postage-prepaid first class mail to the parties on the attached service list.

RLM

February 8, 1995

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